

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In Re:

Carla P. Johnson,
Debtor

Case No. 10-33678-DOT
Chapter 7

**UNITED STATES TRUSTEE'S DECLINATION STATEMENT
PURSUANT TO 11 U.S.C. 704(b)(2)**

Robert B. Van Arsdale, Assistant U.S. Trustee, on behalf of W. Clarkson McDow, Jr., the United States Trustee for Region 4 (the "U.S. Trustee"), files this Statement based on 11 U.S.C. § 704(b)(2) and respectfully states to the Court as follows:

1. This case was commenced by the filing of a voluntary petition under chapter 13 of title 11, 11 U.S.C. § 101, et seq. (the "Bankruptcy Code"), on May 20, 2010.
2. The schedules of the debtor indicate primarily consumer debt.
3. On May 20, 2010, the debtor filed an Official Form 22A, which showed that the presumption of abuse arose in this case.
5. On or about July 9, 2010, the U.S. Trustee, by counsel, filed a statement pursuant to Bankruptcy Code § 704(b)(1) indicating that this case is presumed to be an abuse under Bankruptcy Code § 707(b).
6. Bankruptcy Code § 704(b)(2) provides:

The United States Trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product

Robert B. Van Arsdale, Esq., AUST, VSB 17483
Shannon Franklin Pecoraro, Esq., VSB 46864
Office of the U.S. Trustee
701 East Broad Street
Suite 4304
Richmond, VA 23219
(804) 771-2310

of the debtor's current monthly income, multiplied by 12 is not less than [the applicable median family income amount].

7. Based upon currently available information, the United States Trustee will not file a motion to dismiss this case under Bankruptcy Code § 707(b) because the United States Trustee does not consider such a motion to be appropriate.
8. Specifically, notwithstanding that the presumption of abuse arose under Bankruptcy Code § 707(b)(2), the debtor has demonstrated and documented that compelling circumstances exist in this case.
9. In particular, the debtor has provided evidence showing that she is pregnant. The birth of her child will lead to increased expenses that will make it highly unlikely that there will be any excess income for her household. As a result, the debtor has documented that she has experienced, and will continue to experience, income loss not reflected on the debtor's Official Form B22A.

WHEREFORE, for all of the foregoing reasons, the United States Trustee does not consider a motion to dismiss under Bankruptcy Code § 707(b)(2) to be appropriate under the circumstances.

Dated: June 10, 2010

Respectfully submitted,

W. Clarkson McDow, United States Trustee
Region Four

/s/Robert B. Van Arsdale
Robert B. Van Arsdale

CERTIFICATE OF MAILING

I, the undersigned do hereby certify that on July 9, 2010, I caused to be mailed a true and correct copy of the above and foregoing United States Trustee's Declination Statement Pursuant to 11 U.S.C. Section 704(b)(2), with postage fully prepaid herein, via U.S. Mail, to the following parties:

Carla P. Johnson
22907 Pheasant Court
Petersburg, VA 23803

The Court has electronically mailed the document to the following persons to all other necessary parties, including, the debtor's attorney and the Chapter 7 Trustee.

/s/ Robert B. Van Arsdale
Robert B. Van Arsdale